

THE HONORABLE JAMAL N. WHITEHEAD

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MAKAH INDIAN TRIBE,

Plaintiff,

v.

EXXON MOBIL CORPORATION,
EXXONMOBIL OIL CORPORATION, BP
P.L.C., BP AMERICA INC., CHEVRON
CORPORATION, CHEVRON USA, INC.,
SHELL PLC, SHELL OIL COMPANY,
CONOCOPHILLIPS, CONOCOPHILLIPS
COMPANY, PHILLIPS 66, and PHILLIPS 66
COMPANY,

Defendants.

No. 2:24-cv-00157-JNW

**STIPULATED MOTION AND
ORDER REGARDING
CONSOLIDATED BRIEFING ON
MOTION FOR REMAND**

Noted for March 15, 2024

RECITALS

Plaintiff, the Makah Indian Tribe (“Plaintiff”), and Defendants B.P. p.l.c., BP America Inc., Chevron Corporation, Chevron U.S.A. Inc., Exxon Mobil Corp., ExxonMobil Oil Corporation, Shell plc, Shell USA, Inc. (f/k/a Shell Oil Company), ConocoPhillips, ConocoPhillips Company, Phillips 66, and Phillips 66 Company (collectively, “Defendants”) (Plaintiff and Defendants are collectively referred to herein as “the Parties”), hereby stipulate and agree to the following motion to consolidate briefing with respect to the Plaintiffs’ motion to remand in this matter and in the matter of *Shoalwater Bay Indian Tribe v. Exxon Mobil Corporation et. al.*, 2:24-CV-0158-JNW.

WHEREAS, on December 20, 2023, Plaintiff filed a complaint against the Defendants in the Superior Court of the State of Washington in and for the County of King, No. 23-2-25216-1-SEA, and the Shoalwater Bay Indian Tribe separately filed a substantially similar complaint against the Defendants in the Superior Court of the State of Washington in and for the County of King, No. 23-2-25215-2 SEA (the “SBIT action”).

WHEREAS, on February 6, 2024, Defendants Chevron Corporation and Chevron U.S.A. Inc., with the consent of all properly named and served Defendants, removed this action and the SBIT action from the Superior Court to this Court;

WHEREAS, Defendants’ removal notices in this action and the SBIT action are substantially similar with the sole exception that, in this action, the Defendants raise a treaty rights argument for removal and do not make a similar argument in their removal notice in the SBIT case;

1 **WHEREAS**, Plaintiff and the Shoalwater Bay Indian Tribe (collectively, “Plaintiffs”)
2 each intend to file a Motion to Remand in this action and in the SBIT action, which Defendants
3 intend to oppose;

4 **WHEREAS**, the Plaintiffs and Defendants agree that it would be most efficient for all
5 briefing on the Motion to Remand to be consolidated, with Plaintiffs filing a single motion and
6 brief, Defendants filing a single opposition brief, and the Plaintiffs filing a single reply brief;

7 **WHEREAS**, the Plaintiffs and Defendants further agree that to accommodate such
8 consolidated briefing in the two cases, the word limitations should be extended to provide for up
9 to 10,000 words for the Plaintiffs’ motion and brief and the Defendants’ brief in opposition and
10 up to 5,000 words for the Plaintiffs’ reply brief;

11 **WHEREAS**, this Stipulated Motion does not operate as an admission of any factual
12 allegation or legal conclusion and is submitted subject to and without waiver of any right,
13 defense, affirmative defense, claim, or objection, including lack of subject matter jurisdiction,
14 or lack of personal jurisdiction, insufficient process, or insufficient service of process;

15
16
17 **STIPULATED MOTION**

18 **NOW THEREFORE**, the Parties hereby agree and stipulate, and respectfully move the
19 Court to enter an order, as follows:

20 1. Briefing on the Plaintiffs’ Motion to Remand in this action and in *Shoalwater*
21 *Bay Indian Tribe v. Exxon Mobil Corporation et. al.*, 2:24-CV-0158-JNW, shall be consolidated
22 with the Plaintiffs filing a single motion and brief, the Defendants filing a single opposition brief,
23 and the Plaintiffs filing a single reply brief.
24
25
26

2. The Plaintiffs' motion and brief and the Defendants' opposition brief shall not exceed 10,000 words. The Plaintiffs' reply brief shall not exceed 5,000 words.

Counsel certifies that this memorandum contains 520 words, in compliance with the Local Civil Rules.

Dated: March 15, 2024

SHER EDLING LLP

ORRICK, HERRINGTON &
SUTCLIFFE LLP

By: /s/ Katie Jones

Katie Jones (*pro hac vice*)
Corrie J. Yackulic, WSBA No. 16063
Victor M. Sher (*pro hac vice*)
Matthew K. Edling (*pro hac vice*)
100 Montgomery St., Ste. 1410
San Francisco, CA 94104
Tel: (628) 231-2500
Fax: (628) 231-2929
Email: katie@sheredling.com
corrie@sheredling.com
vic@sheredling.com
matt@sheredling.com

By: /s/ Robert M. McKenna

Robert M. McKenna (WSBA No. 18327)
rmckenna@orrick.com
Mark S. Parris (WSBA No. 13870)
mparris@orrick.com
Andrew Cook (WSBA No. 34004)
andrew.cook@orrick.com
401 Union Street, Suite 3100
Seattle, WA 98101
Telephone: 206.839.4300
Facsimile: 206.839.4301

DRUMMOND WOODSUM & MACMAHON

GIBSON, DUNN & CRUTCHER LLP

Kaighn Smith Jr. (*pro hac vice*)
84 Marginal Way, Ste. 600
Portland, ME 04101
Tel: (207) 253-0559
Email: ksmith@dwmlaw.com

Attorneys for Plaintiff Makah Indian Tribe

Theodore J. Boutrous, Jr. (*pro hac vice*)
tboutrous@gibsondunn.com
Andrea Neuman (*pro hac vice*)
aneumann@gibsondunn.com
William E. Thomson (*pro hac vice*)
wthomson@gibsondunn.com
Joshua D. Dick (*pro hac vice*)
jdick@gibsondunn.com
333 South Grand Ave.,
Los Angeles, CA 90071
Tel: (213) 229-7000
Fax: (213) 229-7520

*Attorneys for Defendants Chevron
Corporation and Chevron U.S.A. Inc.*

BRYNES KELLER CROMWELL LLP

By: s/ Bradley S. Keller
 Bradley S. Keller, WSBA #10665
 By: s/ Joshua B. Selig
 Joshua B. Selig, WSBA No. 39628
 1000 Second Avenue, 38th Floor
 Seattle, WA 98104
 Tel: (206) 622-2000
 Fax: (206) 622-2522
 Email: bkeller@byrneskeller.com
 jselig@byrneskeller.com

PAUL, WEISS, RIFKIND, WHARTON &
 GARRISON LLP

Theodore V. Wells, Jr. (*pro hac vice*)
 Daniel J. Toal (*pro hac vice*)
 Yahnnes Cleary (*pro hac vice*)
 Caitlin E. Grusauskas (*pro hac vice*)
 1285 Avenue of the Americas
 New York, NY 10019-6064
 Tel.: (212) 373-3000
 Fax: (212) 757-3990
 Email: twells@paulweiss.com
 Email: dtoal@paulweiss.com
 Email: ycleary@paulweiss.com
 Email: cgrusauskas@paulweiss.com

*Attorneys for Defendants EXXON MOBIL
 CORPORATION and EXXONMOBIL OIL
 CORPORATION*

STOEL RIVES LLP

By: s/ Vanessa Soriano Power
 Vanessa Soriano Power, WSBA
 No. 30777
 vanessa.power@stoel.com
 Rachel H. Cox, WSBA No. 45020
 rachel.cox@stoel.com
 STOEL RIVES LLP
 600 University Street, Suite 3600
 Seattle, WA 98101
 Telephone: (206) 624-0900

ARNOLD & PORTER KAYE SCHOLER
 LLP

Nancy G. Milburn (*pro hac vice*)
 Diana E. Reiter (*pro hac vice*)
 250 West 55th Street
 New York, NY 10019-9710
 Tel.: (212) 836-8383
 Fax: (212) 715-1399
 Email: nancy.milburn@arnoldporter.com
 Email: diana.reiter@arnoldporter.com

John D. Lombardo (*pro hac vice*)
 777 South Figueroa Street, 44th Floor
 Los Angeles, CA 90017-5844
 Tel.: (213) 243-4000
 Fax: (213) 243-4199
 Email: john.lombardo@arnoldporter.com

Jonathan W. Hughes (*pro hac vice*)
 Three Embarcadero Center, 10th Floor
 San Francisco, CA 94111-4024
 Tel.: (415) 471-3100
 Fax: (415) 471-3400
 Email: jonathan.hughes@arnoldporter.com

Attorneys for Defendant BP America Inc.

CORR CRONIN LLP

By: s/ Timothy A. Bradshaw
 Timothy A. Bradshaw, WSBA No. 17983
 Jeff Bone, WSBA No. 43965
 Victoria E. Ainsworth, WSBA No.
 49677
 1015 Second Avenue, Floor 10
 Seattle, WA 98104-1001
 (206) 625-8600 Phone
 (206) 625-0900 Fax
 tbradshaw@correronin.com
 jbone@correronin.com
 tainsworth@correronin.com

WILMER CUTLER PICKERING HALE
 AND DORR LLP

Hallie B. Levin (*pro hac vice*
forthcoming)
 7 World Trade Center
 250 Greenwich Street
 New York, NY 10007
 Telephone: (212) 295-6710
 Facsimile: (212) 230-8888
 Email: hallie.levin@wilmerhale.com

Matthew T. Martens (*pro hac vice*
forthcoming)
 2100 Pennsylvania Avenue NW
 Washington, DC 20037
 Telephone: (202) 663-6921
 Facsimile: (202) 663-6363
 Email:
 matthew.martens@wilmerhale.com

Robert Kingsley Smith (*pro hac vice*
forthcoming)
 60 State Street
 Boston, MA 02109
 Telephone: (617) 526-6759
 Facsimile: (617) 526-5000
 Email: robert.smith@wilmerhale.com

Attorneys for Defendants Conocophillips
and Conocophillips Company

SUMMIT LAW GROUP, PLLC

By: s/ Alexander A. Baehr
 Alexander A. Baehr, WSBA No. 25320
 alexb@summitlaw.com
 By: s/ Molly J. Gibbons
 Molly J. Gibbons WSBA #58357
 mollyg@summitlaw.com

LATHAM & WATKINS LLP

Nicole C. Valco (*pro hac vice pending*)
 nicole.valco@lw.com
 Katherine A. Rouse (*pro hac vice pending*)
 kathrine.rouse@lw.com
 505 Montgomery St., Suite 2000
 San Francisco, CA 94111-6538
 Telephone: (415) 391-0600

Attorneys for Defendants Phillips 66 and
Phillips 66 Company

K&L GATES LLP

By: s/ Kari L. Vander Stoep
 Kari L. Vander Stoep, WSBA # 35923
 925 Fourth Avenue, Suite 2900
 Seattle, Washington 98104-1158
 Tel: +1 206 623 7580
 Fax: +1 206 623 7022
 Email: kari.vanderstoep@klgates.com

KELLOGG, HANSEN, TODD, FIGEL &
 FREDERICK, P.L.L.C.

David C. Frederick (*pro hac vice forthcoming*)
 James M. Webster, III (*pro hac vice*
forthcoming)
 Daniel S. Severson (*pro hac vice forthcoming*)
 Daren G. Zhang (*pro hac vice forthcoming*)
 1615 M Street, N.W., Suite 400
 Washington, D.C. 20036
 Telephone: (202) 326-7900
 Facsimile: (202) 326-7999
 Email: dfrederick@kellogghansen.com
 Email: jwebster@kellogghansen.com
 Email: dseverson@kellogghansen.com
 Email: dzhang@kellogghansen.com

Attorneys for Shell plc and Shell USA, Inc.
(f/k/a Shell Oil Company)

ORDER

For the reasons above, and finding good cause, the Court hereby grants the Parties' stipulated motion. It is so ordered.

Dated this 19th day of March, 2024.



Jamal N. Whitehead
United States District Judge